

### **REMARKS**

Claims 10, 13-17 and 20-28 are pending in the above-identified application. Claims 10, 13-17 and 20-28 were rejected. With this Amendment, claims 10, 13, 20-22, and 27-28 were amended. Applicants maintain that no new matter has been added. Accordingly, claims 10, 13-17 and 20-28 are at issue in the above-identified application.

### **35 U.S.C. § 112 Indefiniteness Rejection of Claims**

Claims 20, 21, 27 and 28 were rejected under 35 U.S.C. § 112, second paragraph, as failing to comply with the written description requirement. Claims 13, 20, 21, 27 and 28 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Applicants have amended claims 10, 13, 20-22, and 27-28 and respectfully request withdrawal of these rejections.

### **35 U.S.C. § 102 Anticipation Rejection of Claims**

Claims 22 and 25-28 were rejected under 35 U.S.C. § 102(b) as being anticipated by *Yasugata* (JP 08-236095). Claims 10, 13-17 and 20-28 were rejected under 35 U.S.C. § 102(e) as being anticipated by *Gao et al.* (U.S. Patent No. 5,756,230). Claims 10, 13-17 and 22-26 were rejected under 35 U.S.C. § 102(b) as being anticipated by *Humphrey et al.* (EP 0730316).

Claim 10 recites a solid-electrolyte secondary battery comprising a positive electrode, a negative electrode, a solid-electrolyte comprising a matrix polymer comprising a first fluorocarbon polymer having a weight-average molecular weight of *greater than 550,000*, wherein the matrix polymer further comprises a second fluorocarbon polymer having a weight average molecular weight of *greater than 300,000 and less than 550,000*, wherein the matrix polymer comprises *30 percent or more by weight* of the fluorocarbon polymer having a weight-

average molecular weight of *greater than 550,000*. Claim 10 thus recites two ranges, one for a first fluorocarbon polymer having a weight-average molecular weight of greater than 550,000, and a second range for a second fluorocarbon polymer having a weight-average molecular weight of greater than 300,000 and less than 500,000. Additionally, Claim 10 recites that the matrix polymer comprises *30 percent or more by weight* of the fluorocarbon polymer having a weight-average molecular weight of *greater than 550,000*.

Under MPEP 2131.03, for a reference to anticipate a range, that reference must disclose one of two things. First, if the reference must disclose a *specific example* in the prior art which is within a claimed range in order to anticipate that range. MPEP 2131.03 further goes on to state that, “when as by recitation of ranges or otherwise, a claim covers several compositions, the claim is “anticipated” if one of them is in the prior art. Applicants have reviewed the prior art references and have not been able to find a specific example within the prior art which is within both claimed ranges and falls within the percentages specified in claim 10.

Second, a reference anticipates a range if it teaches or disclose a range within, overlapping, or touching the claimed range with “*sufficient specificity*.” (See MPEP 2131.03) For example, when the prior art discloses a range which touches, overlaps, or is within the claimed range, but no specific examples fall within the claimed range are disclosed or falling within the claimed range are disclosed, a case determination must be made as to anticipation. (See MPEP 2131.03) Furthermore, in order to anticipate the claims, the claimed subject matter must be disclosed in the reference with *sufficient specificity* to constitute an anticipation under the statute. (See MPEP 2131.03) What constitutes a “sufficient specificity” is fact dependent. If the claims are directed to a narrow range, the reference teaches a broad range, and there is evidence of *unexpected results* within the claimed narrow range, depending on the other facts of


the case, *it may be reasonable to conclude that the narrow range is not disclosed with "sufficient specificity" to constitute an anticipation of the claims.* Applicants maintain that the above-cited references cite broad ranges which do not disclose subject matter with *sufficient specificity* to constitute an anticipation under the statute. Furthermore, Applicants have provided the Examiner with a declaration under 37 C.F.R. § 1.132 filed on February 23, 2004 which Applicants believe is sufficient to overcome the rejections of the claims based upon the cited references since that declaration recites evidence of *unexpected results* within the claimed narrow range, as required under MPEP § 2131.03.

Accordingly, Applicants submit that the claimed invention is not anticipated by nor obvious over the applied references, either alone or in combination. Withdrawal of these grounds of rejection is respectfully requested.

In view of the foregoing, Applicant submits that the application is in condition for allowance. Notice to that effect is requested.

Respectfully submitted,

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By:   
David Rozenblat  
Registration No. 47,044  
SONNENSCHN NATH & ROSENTHAL LLP  
P.O. Box 061080  
Wacker Drive Station, Sears Tower  
Chicago, Illinois 60606-1080  
(312) 876-8000

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